REMARKS

In the Office action of September 18, 2008, the Examiner objected to the drawings for not showing certain claimed elements, and also objected to claim 33 for misspelling of a word.

With regard to the Examiner's objection to the drawings on the basis that the tissue penetrating means and tissue drive means must be shown, the body of the specification has been amended, as mentioned above, on pages 7 and 13 to refer specifically to those features which form the tissue penetration device (54) and the tissue drive device (216).

With regard to the Examiner's objection to claim 33 regarding the spelling of the term "biased". As requested by the Examiner, the claim has been corrected.

The Examiner rejected claims 22-34 under 35 U.S.C. 112, second paragraph as indefinite. The claims have been amended to delete the term "means".

Claims 24 and 28 cancelled without prejudice by this amendment.

Claims 22 and 27 amended to clarify the subject matter of the invention. Claim 22 now incorporates limitations of the original claim 24, claim 24 being cancelled. Claim 27 is amended to add the suture element feed opening from claim 24. The support for these amendments can be found on page 10, line 9 of the specification, and in FIGs. 3 and 5.

Claim 25 is amended to render it dependent on claim 22, and claim 29 is amended to depend on claim 27.

Rejections under 35 USC §102 (b) and §103 (a)

The Examiner's rejected claims 22-31 under 35 USC §102 (b) as anticipated by Weng (US Patent No. 5,569,270). The Examiner also rejected claims 32-34 under 35 USC §103 (a) as unpatentable over Weng (US Patent No. 5,569,270) in view of Mull (US Patent No. 2,611,366).

The Applicant has carefully reviewed the Examiner's rejection and, for the reasons set out herebelow, respectfully submits that the claims as previously presented and recently amended define an invention which is patentably distinguishable over the cited prior art.

It is respectfully submitted that in Weng, the suture element is contained on a spool 36 which is mounted within the body 22 (see column 3 lines 55 to 63). Weng specifically points out that the door 38 through which access is gained to the spool must be fluid tight since the spool is contained in the fluid inside the body 22.

In contrast, as indicated in amended claims 22 and 27, the medical implement includes a suture element feed path having a suture element feed opening whereby sutures can be fed into the body from outside of the medical implement. The applicant respectfully submits that this greatly enhances the flexibility of the medical implement, and clearly is not possible or contemplated with either Weng or Mull.

Hence, for example, in view of the fact that a portion of the suture element is accessible from outside of the medical implement, manipulation of the suture element is greatly enhanced since it can be retracted into the medical implement simply by pulling on the free end thereof, i.e., the portion which is outside the device and has not yet passed through the suture element feed opening. It is respectfully submitted, that in neither of the prior art patents, would this be possible. In addition, should a doctor wish to change the suture material this can be done relatively simply either by simply

introducing the new suture material into the medical implement through the suture element feed opening or by connecting the new material to the free end of the material already in position in the implement and continuing to feed the suture material until the new suture material exits the medical implement through the outlet.

A yet further and very important advantage of the present invention is that it permits the use of a suture threader. This is illustrated diagrammatically in the attached drawings FIG. A and FIG. B.

As illustrated in Figure A, a suture threader (10) is inserted through the suture element feed opening (12), along the suture element feed path (14) into the fluid flow path (16) and out of the outlet (18). The end of the suture threader (10) protruding from the outlet has a loop (20) through which a suture (22) can be fed. The suture element is then retracted drawing is then retracted in the direction of arrow (24) drawing the suture (22) with it into the implement through the outlet. The end of the suture needle can then be inserted through tissue, see Figure B penetrating the tissue (26) and taking the suture with it. The suture can then be removed from the medical implement either by ejecting it under the influence of fluid flowing through the end of the path or by means of an arthroscopic gripping device. This is particularly useful in arthroscopic surgery where bone anchors are supplied with the sutures already attached to the anchors. Neither of the prior art devices would be capable of functioning in this manner since it is simply not possible to feed a suture threader though the associated instrument.

Similarly, it is respectfully submitted that the suture material in Mull (US Patent No. 2,611,366) is contained on the spool 35 which is also contained within the body of the implement.

The Applicant accordingly submits that the versatility of the medical implement in accordance with the present invention is greatly enhanced compared to the medical implements of the cited prior art.

Applicant respectfully submits that none of the cited prior art references, alone or in combination, discloses or suggests a medical implement as claimed by the present application.

Since the independent claims as 22 and 27 are believed to be allowable over the known prior art, the dependent claims are also allowable.

In view of the above, Applicant respectfully requests reconsideration of Examiner's decision and allowance of the application as presently amended.

The Commissioner is hereby authorized to charge any additional fees which may be required in the application to Deposit Account No. 06-1135.

Respectfully submitted,

Lilia I. Safonov
Registration No. 45,967

Date: March 18, 2009

FITCH, EVEN, TABIN & FLANNERY
120 S. LaSalle Street
Suite 1600
Chicago, Illinois 60603-3406
Telephone: 312.577.7000
Facsimile: 312-577-7007

APPENDIX:

Attached FIG. A and FIG. B